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No. 89-464

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1989

GEORGE W. WILSON, et al. - - - - - Petitioners

versus

PAT CANTERINO, a/k/a PAT WILLIAMS, et al. - - - - - Respondents

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BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI

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October 18, 1989

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39 pp

QUESTION PRESENTED

The question presented by this case is whether a federal district court, having found that prison officials deprived women inmates of meaningful access to the courts, and having found that prison officials deprived women inmates of access comparable to that of men inmates, has the discretion to fashion a remedy which includes the temporary provision of a half-time attorney to assist women inmates in their civil and criminal law needs.

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GEORGE W. WILSON, et al. - - - - - *Petitioners*

v.

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PAT WILLIAMS, et al. - - - - - *Respondents*

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI

The respondents, Pat Canterino, a/k/a Pat Williams, Susie M. Bland, Tina Stone, Wanda Hicks, Joan Starks, Cecilia A. Gonzalez, Betty Holder, and Shirley LaCourse, as representatives of the class of inmates incarcerated at the Kentucky Correctional Institution for Women, respectfully oppose issuance of a writ of certiorari for the reasons contained in this brief.

COUNTERSTATEMENT OF THE CASE

The petitioners' (Corrections) statement of procedural history is essentially accurate and will not be repeated here. The respondents (the inmates) write only to highlight factors weighing against issuance of the writ.

This is a comprehensive prison conditions class action on behalf of women prisoners at the Kentucky

Correctional Institution for Women (KCIW). After a four-week trial in April and May 1982, the district court issued a memorandum opinion and order granting injunctive and declaratory relief in many areas, including access to the courts. *Canterino* v. *Wilson,* 546 F. Supp. 174 (W.D. Ky. 1982).

The district court found that the KCIW law library had been "woefully inadequate"[1] and that the library was generally open only during program hours, thus depriving many inmates of its use. Although Corrections made improvements prior to trial, the KCIW library "still [did] not include many basic books which must be provided" for men, and was open much less often than libraries at Kentucky's men's prisons.[2] *Id.* at 203. Male prisoners were also afforded ten to thirty times the access to attorneys than were women prisoners.[3] *Ibid.* The district court concluded that these

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[1]The court found that at the time the case was filed, the Supreme Court Reporter had not been updated in over six years, the library contained only 22 of the more than 400 Federal Reporters published since 1960, and that the library contained no Shepard's Citations. 546 F. Supp. at 203.

[2]Trial testimony revealed that the men's law library was open for prisoner use seven hours per day, four days per week. R. 328: Trial Transcript, Vol. 7, p. 1495. By contrast, the KCIW law library was open to inmates only from 12:30 to 3:15 p.m., Tuesday through Friday. Since these hours coincided with afternoon work shifts and program hours, inmates had virtually no access to the library unless they obtained permission to miss class or work. R. 328: Trial Transcript, Vol. 1, p. 242; *Canterino,* 546 F. Supp. at 203.

[3]Attorneys from the Office (now Department) of Public Advocacy (OPA) spent 96 hours per week at one men's prison, an

(Footnote Continued on Next Page)

inadequacies denied meaningful access to the courts, as required by *Bounds* v. *Smith*, 430 U.S. 817 (1977), and found that the disparate treatment of male and female prisoners violated the equal protection clause of the Fourteenth Amendment. *Canterino*, 546 F. Supp. at 216.

To cure these constitutional deficiencies, the district court ordered Corrections to supply a law library comparable to those for men, to substantially increase the library's operating hours and to provide the equivalent of one half-time attorney (i.e., twenty attorney hours per week) to assist women prisoners "in all areas, including habeas corpus and other civil matters, in which they have a demonstrated need." *Ibid.*[4]

Corrections did not pursue an appeal of the district court's findings or legal conclusions. It merely sought relief from one aspect of the court's remedial order —

(Footnote Continued From Preceding Page)

average of one attorney hour per fifteen inmates. They spent 120 hours per week at the other men's prison, an average of one attorney hour per five inmates. Attorneys visited KCIW for two to three hours once every three weeks, a weekly average of one attorney hour per 150 inmates. *Canterino*, 546 F. Supp. at 203; R. 328: Trial Transcript, Vol. 7, pp. 1493-94.

[4]Contrary to Corrections' assertion, see Petition for a Writ of Certiorari (Petition), at 3, the court did not initially order Corrections to "hire a half-time attorney". Corrections was merely required to *provide* attorney services, whether through OPA, volunteers or other means. Only when Corrections refused to submit any alternative plan did the court order Corrections to hire an attorney. See *Canterino*, 644 F. Supp. 738, 739-40 (W.D. Ky. 1986).

attorney hiring — and appealed denial of relief as an abuse of the district court's discretion.[5]

The district court denied relief from its injunction. *Canterino,* 562 F. Supp. 105 (W.D. Ky. 1983). In so doing, the court made clear that temporary attorney hiring was intended to remedy both equal protection violations and the lack of meaningful access to the courts. The district court held that, as a result of Corrections' conduct, women inmates lacked a history of self-help through jailhouse lawyers and writwriters. Thus, males had access to inmate legal aides capable — in part through their frequent exposure to attorneys — of providing assistance in a wide range of civil litigation, including state and federal habeus corpus and civil rights actions. Women legal aides — in part through their lack of exposure to attorneys — had no experience in federal or appellate practice, had handled no habeus corpus proceedings and had little experience outside of family law. See R. 439: Plaintiffs' Post-Trial Memorandum on Access to the Courts, Appendices A - H (reproduced in the appendix at 1a-17a). These experienced male legal aides could train their peers and successors in ways unavailable to inexperienced women.

The district court concluded that this massive disparity could not be eliminated solely through providing

[5]Corrections' failure to preserve any argument beyond its abuse of discretion challenge to one aspect of the district court's remedial order precludes it from asserting those arguments here. Corrections has failed to preserve the second and third questions it seeks to present. See Petition, at (i).

comparable law library facilities, hours and contents. *Canterino,* 562 F. Supp. 105, 112 (W.D. Ky. 1983). Women inmates could only be "brought up to speed" by providing them short-term access to an attorney.[6] The court left to the parties the task of formulating the precise details for implementing its order. *Ibid.* After repeated briefing — and after Corrections' consistent failure to submit an adequate plan[7] — the district court finally ordered Corrections to hire one half-time attorney for eighteen months. *Canterino* v. *Wilson,* 644 F. Supp. 738 (W.D. Ky. 1986).

The order was affirmed by a divided panel of the United States Court of Appeals for the Sixth Circuit, which held that, on this record, the district court did not abuse its discretion in fashioning relief. The Sixth Circuit denied rehearing en banc.

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[6]Corrections asserts that the mere provision of an attorney is affirmative sex-conscious relief. Since men received ten to thirty times the access to attorneys than did women, see n. 3, the part-time attorney requirement is merely compensatory. The only "affirmative" component of the remedy is that compelling attorney assistance in civil matters. This component is designed to ensure that women inmates have comparable access to the courts (through law books, library facilities and *trained, experienced inmate paralegals*) as do similarly situated men.

[7]Corrections' intransigence is fully reflected in the record. See R. 273: Defendants' Plan for Access to the Courts; R. 279: Plaintiffs' Response to Plan for Access to the Courts; R. 283: Order; R. 439: Plaintiffs' Post-Trial Memorandum on Access to the Courts; R. 517: Plaintiffs' Supplemental Memorandum; R. 519: Defendants' Supplemental Memorandum; R. 543: Supplement to Defendants' Supplemental Memorandum; R. 544: Plaintiffs' Response to Supplemental Memorandum; R. 546: Defendants' Reply Memorandum.

REASONS FOR DENYING THE WRIT

I. The Case Does Not Conflict With Any Decision of This Court, the Sixth Circuit or Any Other Circuit.

Corrections argues that the Sixth Circuit's decision conflicts with three decisions of this Court,[8] two decisions of the Sixth Circuit[9] and decisions of eight other circuits.[10] See Petition, at 19-25.

The alleged conflict is illusory; indeed, not even the dissenting opinion below suggests that a conflict exists and Corrections' identical argument failed to garner a single vote for rehearing en banc. Corrections does not — for it cannot — specify the supposed conflict, nor does it explain why the dissent found none. Corrections simply misreads these cases, which are consistent with one another and with the decision below.

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[8] *Murray* v. *Giarratano*, 109 S. Ct. 2765 (1989); *Bounds* v. *Smith*, 430 U.S. 817 (1977); and *Wolff* v. *McDonnell*, 418 U.S. 539 (1974).

[9] *Walker* v. *Mintzes*, 771 F. 2d 920 (6th Cir. 1985); and *Holt* v. *Pitts*, 702 F. 2d 639 (6th Cir. 1983).

[10] *Cepulonis* v. *Fair*, 732 F. 2d 1 (1st Cir. 1984); *Peterkin* v. *Jeffes*, 855 F. 2d 1021 (3rd Cir. 1988); *Harrington* v. *Holshouser*, 741 F. 2d 66 (4th Cir. 1984); *Williams* v. *Leeke*, 584 F. 2d 1336 (4th Cir. 1978), *cert. den'd*, 442 U.S. 911 (1979); *Morrow* v. *Harwell*, 768 F. 2d 619 (5th Cir. 1985); *Cruz* v. *Hauck*, 627 F. 2d 710 (5th Cir. 1980); *Cruz* v. *Hauck*, 762 F. 2d 1230 (5th Cir. 1985); *Campbell* v. *Miller*, 787 F. 2d 217 (7th Cir. 1986), *cert. den'd*, 479 U.S. 1019 (1986); *Kelsey* v. *Minnesota*, 622 F. 2d 956 (8th Cir. 1980); *Sands* v. *Lewis*, 878 F. 2d 1188 (9th Cir. 1988); *Lindquist* v. *Idaho State Board of Corrections*, 776 F. 2d 851 (9th Cir. 1985); *Hooks* v. *Wainwright*, 775 F. 2d 1433 (11th Cir. 1985); *Straub* v. *Monge*, 815 F. 2d 1467 (11th Cir. 1987).

A. The Decision Does Not Conflict With Prior Supreme Court Decisions.

This Court has recognized that it "is now established beyond doubt that prisoners have a constitutional right to access to the courts." *Bounds* v. *Smith,* 430 U.S. 817, 821 (1977).

In *Bounds,* the Court emphasized that there are several acceptable methods for ensuring meaningful access and that the adequacy of compliance can only be ascertained by reviewing the system as a whole:

> Among the alternatives are the training of inmates as paralegal assistants to work under lawyers' supervision, the use of paraprofessionals and law students . . . the organization of volunteer attorneys through bar associations or other groups, the hiring of lawyers on a part-time basis, and the use of full-time staff attorneys, . . . *Any plan, however, must be evaluated as a whole to ascertain its compliance with constitutional standards.*

430 U.S. at 831-832 (emphasis added).

Corrections asserts that the decision below is inconsistent with *Bounds* because meaningful access to the courts can be provided in a number of ways and "deference must be given state officials to experiment with different options." Petition, at 19.

The Sixth Circuit *acknowledged* that prison authorities are to be given broad deference, but also stated that district courts have broad remedial discretion once constitutional violations have been found. Slip Op., at 4. Here, Corrections has not challenged the dis-

trict court's finding of constitutional violations, nor has it challenged the remedy of increased law library contents and hours. Moreover, during the four years between the district court's initial opinion, 546 F. Supp. 174, and its ultimate remedial order, 644 F. Supp. 738, prison officials offered no alternative remedy to the court.[11] Having chosen to abstain from the remedial process, Corrections cannot now be heard to complain about a lack of deference.

Wolff v. *McDonnell,* 418 U.S. 539 (1974), is similarly consistent with the opinion here. In *Wolff,* this Court held that the due process clause assures that no inmate will be denied the opportunity to present to the judiciary claims of constitutional violations. "The recognition by the Court that prisoners have certain constitutional rights which can be protected by civil rights actions would be diluted if inmates, often 'totally or functionally illiterate,' were unable to articulate their complaints to the courts." *Id.* at 579.

Here, the record reflects that a large segment of KCIW's population is similarly unable to articulate complaints to the courts. More than two-thirds of the population had less than a high school education. Half of the population completed no more than the eighth, ninth or tenth grade. *Canterino* v. *Wilson,* 562 F. Supp. at 110.

Corrections argues that the panel opinion is inconsistent with *Wolff* because here "the record [did not] establish that a need for any legal assistance was not

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[11]See n. 7.

being met . . ." Petition, at 20. This argument misstates the record and misconstrues *Wolff*.

Unrebutted affidavits showed that male legal aides had gained expertise in a wide range of civil litigation, including habeas corpus and civil rights. Their female counterparts had no federal or appellate experience, and handled little but family law. R. 439: Plaintiffs' Post Trial Memorandum on Access to the Courts, Appendices A-H (1a-17a). Besides, an inmate who lacks access to legal materials and the advice of an attorney will not know whether she has a cognizable claim, nor will she know the means to present one. As the Third Circuit recently held:

> Legal assistance . . . whether in the form of an accessible and adequate law library, court-appointed or other attorneys or para-professionals, or some combination of legal resources . . . is central, not peripheral, to the right of access to the courts that *Bounds* protects. We believe that in cases . . . directly involving prisoners' access to legal knowledge, an actual injury necessarily occurs by virtue of a prison's failure to provide the level of assistance required under *Bounds*. [In cases] alleg[ing] the inadequacy of "law libraries or alternative sources of legal knowledge," . . . the analysis of whether an actual constitutional injury exists is simply the *Bounds* analysis. This reading of our actual injury requirement is supported . . . by *Bounds* itself, where the Court's sole inquiry was whether the legal assistance provided was sufficient to afford prisoners meaningful access to the courts.

Peterkin v. *Jeffes,* 855 F. 2d 1021, 1041-42 (3rd Cir. 1988) (citations and footnote omitted). *Accord, Walters* v. *Thompson,* 615 F. Supp. 330, 338 (N.D. Ill. 1985).

The district court found that the improved KCIW law library did not assure meaningful access for all inmates. Physical deficiencies still impeded an inmate's ability to use the library. The library had insufficient space, lighting and study areas, was too noisy and had no tables available for research. It was supervised solely by inexperienced inmate legal aides. *Canterino,* 562 F. Supp. at 110. Men's access to attorneys remained ten to thirty times greater than women's. 546 F. Supp. at 203. Inmates in protective custody or in the cell block could not even use the library. They were limited to four books per day, four days per week, in their cells, and were barred from access to core statute and criminal law books. 562 F. Supp. at 110. *Wolff* thus *supports* the Sixth Circuit's conclusion that, *on this record,* the district court did not abuse its discretion.

Nor is *Murray* inconsistent with this case. There, this Court held that death-row inmates were not constitutionally entitled to appointed counsel in post conviction proceedings. The Court noted, however, that a limited remedy might be appropriate if "adequate and timely access" was not available to inmates. The district court here found, and the record supports, that access for women inmates is still not adequate and is substantially inferior to that for men inmates. The district court's limited remedy of a temporary part-

time attorney is supported by the Court's unchallenged factual findings.

B. The Decision Does Not Conflict With Prior Sixth Circuit Decisions.

The Sixth Circuit cases relied on by Corrections are similary compatible with the decision below. Moreover, in *Glover* v. *Johnson,* 478 F. Supp. 1075, 1096 (E.D. Mich. 1979), *aff'd sub nom Cornish* v. *Johnson,* 774 F. 2d 1161 (6th Cir. 1985) (mem.), the Sixth Circuit rejected the fundamental contention of Corrections here—that *Bounds* requires officials to furnish a law library or legal assistance, but never both.

> . . . Defendants' position that they are obligated only to provide *either* an adequate law library *or* qualified legal assistance is too narrow a reading of *Bounds.* An adequate law library cannot provide meaningful aid to a prisoner unschooled in the most basic techniques of legal research. As a result, courts have recognized the need for the assistance of others who possess these skills in order to render the inmate's right to access effective.

478 F. Supp. at 1096 (emphasis in original). The Court thus required that legal assistance and training be provided to assure women inmates' right of access to the courts. *Id.* at 1097.

In *Holt* v. *Pitts,* 702 F. 2d 639, 640-41 (6th Cir. 1983), the court held that a prisoner, who had been afforded assistance of counsel *and* had law books available to him, had not been denied meaningful access. It in no way argues against the relief granted here.

Finally, in *Walker* v. *Mintzes,* 771 F. 2d 920, 931-2 (6th Cir. 1985), the Court held that limitations on library hours—imposed after a prison right—did not per se violate *Bounds.* The court remanded the case "for the district court to consider whether adequate access to court has been denied . . ." *Id.* at 932.

Like the other cases cited by Corrections, *Walker* is consistent with the opinion below, which recognized that, under *Bounds,* "a legal access program . . . must be evaluated *as a whole* to ascertain its compliance with constitutional standards." Slip Op., at 5, quoting *Bounds,* 430 U.S. at 832 (emphasis added).

The cases relied on by Corrections conflict with the decision below only if it—and the district court order it affirmed—is read to *mandate* law libraries *and* attorney assistance in all cases. Neither the circuit court, nor the district court, nor the respondents assert such a broad and erroneous proposition. To the contrary, this decision holds only that in an appropriate case, a district court has the discretion to require the short-term provision of attorney assistance. The dissent disagrees with the remedy, but not even it argues that the majority opinion conflicts with Supreme of Circuit Court decisions.

C. The Decision Does Not Conflict With Decisions of Other Circuits.

Corrections claims that the decision below conflicts with decisions from eight other circuits, but confines its analysis to two paragraphs. See Petition, at 21-22. The Sixth Circuit properly distinguished these cases on

two grounds. First, they stand for the proposition that it is not always necessary to provide both a law library and legal assistance; they do not stand for the proposition that a court may never require such a combination. Slip Op., at 7-8. To the contrary, "every program 'must be evaluated on its own to establish, first, what the prisoners' needs for legal assistance are and, second, whether those needs are being met.' " *Id.* at 6, quoting *Kelsey* v. *Minnesota*, 622 F. 2d 956, 958 (8th Cir. 1980) (citations omitted).

Second, none of the cases from other circuits "involved a finding by the district court that there was an equal protection violation in that women inmates had less satisfactory access to the courts than male inmates." Slip Op., at 8. Here, the record reflects, and the district court found, that male inmates had better library facilities and had ten to thirty times the access to attorneys as did women. As a result of their better access, men had developed a self-help mechanism through use of skilled inmate legal aides. Women inmate legal aides simply lacked the history and skill of their male counterparts. None of the circuit decisions rejecting attorney assistance on specific factual records bars relief on the factual record here.

II. The Decision Below is Narrow and Limited Solely to This Record.

The Sixth Circuit's unpublished opinion makes no new law, is limited to a narrow review of a district court's remedial discretion and is expressly tied to this factual record. It thus has little or no applicability to other cases and does not warrant this Court's review.

Corrections has not preserved on appeal its challenge to the district court's factual findings and legal conclusions.[12] The case thus comes to this Court upon the following facts and legal conclusions: Corrections deprives KCIW inmates of equal protection[13] in their access to the courts by providing similarly situated men with superior law library facilities and substantially better trained, more experienced, inmate legal aides. Corrections also deprives KCIW inmates of meaningful access to the courts because the law library—however well stocked[14]—has insufficient space, light and study areas, is too noisy, has no tables available for re-

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[12]See n. 5.

[13]Corrections argues that the district court erred in finding equal protection violations in the absence of intentional sex discrimination. Petition, at 12-18. Not only was this argument not preserved, it is wrong on the law. Adverse effects from gender-neutral classifications offend the Constitution only if they constitute "purposeful discrimination". *Personnel Adm'r of Massachusetts* v. *Feeney*, 442 U.S. 256, 274 (1979). However, "classifications based upon gender must bear a close and substantial relationship to important governmental objectives, and are in many settings unconstitutional." *Id.* at 272-73. Corrections has created a gender-based classification: women inmates receive specified access to the courts while male inmates receive different (and better) access. Gender-based classifications call for a heightened ("mid-tier") standard of review, *City of Cleburne, Tex.* v. *Cleburne Living Center*, 473 U.S. 432, 439 (1985), and are invalid unless substantially related to an important governmental interest. *Mississippi University for Women* v. *Hogan*, 458 U.S. 718, 727 (1982); *Craig* v. *Boren*, 429 U.S. 190, 198 (1976). Corrections has articulated no important interest served by providing women with inferior access to that provided men.

[14]Some inmates do not even have access to the library. *Canterino*, 562 F. Supp. at 110. They must rely entirely on inexperienced inmate legal aides.

search and is supervised solely by inexperienced inmate legal aides. Moreover, inmates have virtually no access to attorneys and the inmate legal aides lack the training to serve "as paralegal assistants . . . work[ing] under lawyers' supervision . . ." *Bounds,* 430 U.S. at 831.

This factual record serves as the sole basis for the Sixth Circuit's conclusion that the district court did not abuse its discretion in fashioning its limited remedy[15] to cure these constitutional deficiencies. These facts are unique. They require a close look at the physical configuration of the KCIW law library, an assessment of the training and skills of KCIW's inmate legal aides, and an evaluation of inmates' access to legal materials, lawyers and legal aides. They also require a comparison of library contents, physical structure, legal aides and attorney access for men inmates to those for women inmates. While similar cases may arise elsewhere, the limited legal issue—abuse of remedial discretion—can only be decided with reference to the unique facts of these cases. This case thus has limited applicability.

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[15]The district court ordered that an attorney be hired to assist and train women inmates, not necessarily to represent them. Thus, after the initial eighteen months, the court can evaluate whether women legal aides possess sufficient skills to serve—like their male counterparts—as experienced paraprofessionals.

CONCLUSION

For these reasons, the petition presents a narrow legal issue unique to the facts of this case. The Sixth Circuit's conclusion that the district court did not abuse its discretion in fashioning a limited remedy to cure the constitutional violations is consistent with the case law, amply supported by the record, and of limited applicability beyond this case. The petition for a writ of certiorari should therefore be denied.

Respectfully submitted,

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APPENDIX

APPENDIX A

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

Civil Action No. 80-0545-L(J)

PAT CANTERINO, et al., - - - - - - *Plaintiffs,*

AND

THE UNITED STATES OF AMERICA - - - - - *Plaintiff-Intervenor,*

v.

GEORGE WILSON, et al., - - - - - *Defendants.*

AFFIDAVIT

I, OLIVER BOYD, having been duly sworn do depose and states as follows:

1. I am a Legal Aide at the Kentucky State Reformatory and have been for approximate (26) months.

2. I took the Legal Aide Course at Eddyville State Penitentiary, and since that time have participated in several follow-up advance courses supplied by the Public Advocate Office, at LaGrange.

3. Most of the complex problems involved were learned through reaction with other Legal Aide and other.

4. The Legal Aide Training Course, was helpful in several ways, but very limited due to several factors.

(1) Not enough Instructors to deal with particular areas.

(2) Then the O.P.A. cannot, and will not involve themselves in any Civil matters.

1. 2254 11.42 1983 approximate 30% including my own cases.
2. Domestic, approx. 50%, including Divorces, summons, Detainers, Lawsuits.
3. Internal Grievance 15%.
4. Five % Court Calls, and Direct Appeals.

(s) Oliver E. Boyd
Affiant

Subscribed and sworn to before me by Oliver Boyd, this 10th day of Sept. 1984. My commission expires: 17 Aug. 1986.

(s) Irma Dell Smith
Notary Public, State-at-Large, Ky.

(SEAL)

APPENDIX B

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

Civil Action No. 80-0545-L(J)

PAT CANTERINO, et al., - - - - - - *Plaintiffs,*

AND

THE UNITED STATES
OF AMERICA - - - - *Plaintiff-Intervenor,*

v.

GEORGE WILSON, et al., - - - - - *Defendants.*

AFFIDAVIT

I, CALVIN BUCHANAN, having been duly sworn, do depose and state as follows:

I am a legal aide at the KSR and have been assigned as such for a year. My prior experience as a aide was at KSP at Eddyville where I worked out of the legal office for five (5) years. I took the legal course but most of my learning has come from reading research and questioning attornies, para-legals and other residents who were known to have knowledge of civil or criminal law. My time at the office is used in the A.M. hours with Thursday being an exception for typing up the various materials. I may be working on at the time. Afternoons I am the assigned legal aide for the segregation area and the Reception Unit, plus the Hospital. I contact the O.P.A. anytime a resident has a direct appeal. My work mostly consists of the

post conviction actions (20%), civil (10%), Divorce (15%), Detainers (15%), appeals of adjustment committee (5%), hearings for residents' in Segregation. I usually put in 2½ to 3 hours a day for typing and/or research.

(s) Calvin Buchanan
Affiant

Subscribed and sworn to before me by Calvin Buchanan, this 10th day of September, 1984. My commission expires: 17 Aug. 1986.

(s) Irma Dell Smith
Notary Public, State-at-Large, Ky.

(SEAL)

APPENDIX C

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

Civil Action No. 80-0545-L(J)

PAT CANTERINO, et al., - - - - - - *Plaintiffs,*

AND

THE UNITED STATES OF AMERICA - - - - - *Plaintiff-Intervenor,*

v.

GEORGE WILSON, et al., - - - - - *Defendants.*

AFFIDAVIT

I, WALTER MCKINLEY HARRIS, having first been duly advised and sworn, do depose and state as follows:

1. That I am an inmate legal aide at Kentucky State Reformatory and have been assigned as such for approximately eighteen (18) months;

2. That I have had the basic legal training offered by the departments of corrections and public advocacy on at least three (3) separate occasions between October of 1977 and September of 1984; that I have had the advanced legal training offered by the aforesaid departments on at least two (2) separate occasions between October of 1977 and September of 1984; that I have achieved a marginal degree of proficiency in the areas of criminal and civil law (i.e., with respect to researching various issues and preparing, *inter alia,* RCr 11.42 motions, CR 60.02 motions,

CR 590.09 motions, habeas corpuses (state/federal), civil complaints, direct appeals in civil actions, appeals from denials of post-conviction motions and petitions, motions for discretionary review, petitions for writs and certiorari) through the aforementioned training and working on my own and othre prisoners' cases; and

3. That the majority of my working hours are devoted to assisting other prisoners with the preparation of post-conviction motions and divorce petitions (60% postconviction, 15% divorce petitions) and the remainder is relatively equally divided on dealing with other types of civil matters (prison conditions, negligence and/or malpractice (attorneys), child support, etc.).

MORE AFFIANT SAITH NAUGHT.

(s) Walter M. Harris
Affiant

Subscribed and sworn to before me by Walter McKinley Harris, this 10th day of Sept. 1984. My commission expires: Aug. 17, 1986.

(s) Irma Dell Smith
Notary Public, State-at-Large, Ky.

(SEAL)

APPENDIX D

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

Civil Action No. 80-0545-L(J)

PAT CANTERINO, et al., - - - - - - *Plaintiffs,*

AND

THE UNITED STATES
OF AMERICA - - - - - *Plaintiff-Intervenor,*

v.

GEORGE WILSON, et al., - - - - - *Defendants.*

AFFIDAVIT

I, WALLACE SCHOTT, being duly sworn, do depose and state as follows: I am a resident legal aide at the Kentucky State Reformatory and have worked as such for the last 19 months. I have obtained the biggest part of my knowledge from the collective pooling with the other five resident legal aides as well as from the Office of Public Advocacy and the para-legals who come to the resident legal aide office weekly. My time is primarily spent on post-conviction and domestic relations problems broken down as follows: 11:42 (60%), Detainers (10%), Sentence computation and other related sentencing problems (5%), Divorces (15%), Child Custody and Visitation (5%). The other 5% of my time is divided about equally between 1983 actions and 2254 actions. I do not fool with direct criminal appeals since the O.P.A.'s office does these in most all cases. I also try

to work with and share what knowledge and experience I have with incoming legal aides.

(s) Wallace E. Schott, Sr.
Affiant

Subscribed and sworn to before me by Wallace Schott, this 10th day of September, 1984. My commission expires: 17 Aug. 1986.

(s) Irma Dell Smith
Notary Public, State-at-Large, Ky.

(SEAL)

APPENDIX E

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

Civil Action No. 80-0545-L(J)

PAT CANTERINO, et al., - - - - - - *Plaintiffs,*

AND

THE UNITED STATES
OF AMERICA - - - - - *Plaintiff-Intervenor,*

v.

GEORGE WILSON, et al., - - - - - *Defendants.*

AFFIDAVIT

I, DEANNA JEAN ALLEN, after being first duly sworn, do hereby state as follows:

I am assigned to the Legal Aid Dept. as a Certified Legal Aid having worked in Legal Aid for over one year;

I have had a 2-week training course at KSR conducted by the Office of Public Advocacy. I was a Legal Secretary for 17 years prior to coming to KCIW, and as such was familiar with court documents and pleadings insofar as knowing how to draw them up; also my prior experience in law offices has helped me to assist Residents at KCIW with some civil matters, such as divorces.

Other than Domestic Relation Actions, I have never drafted any other legal documents or court pleadings for any resident at KCIW.

I have never drafted or filed any appellate court actions, or an 11.42 Motion; 60.02 Motion; 59.05 Motion; or Habeas Corpus actions, or any actions in Federal Court. I have listed these types of actions because my attorney asked if I knew *what* they were and *how* to draft them. It is extremely frustrating when residents ask assistance and help from me as a "Legal Aid" and I can't help them because of lack of legal training and no one to turn to for help.

I would like to be able to know how to legally research a matter by using the law books and legal library. There is a great amount of money expended for our law library but hardly no one knows "how" to use it!

I work part-time in Legal Aid on Saturdays from 12:00 to 4:00 when College classes are in session; however, when they aren't, I also work Tues., Wed. & Thurs. evenings from 4:00 to 7:00 P.M.

(s) Deanna Jean Alien
Affiant

Subscribed and sworn to before me by Deanne Jean Allen, this 13th day of September, 1984. My Commission expires: 5/18/88

(s) Dianne C. Childers
Notary Public, State-at-Large, Ky.

(SEAL)

APPENDIX F

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

Civil Action No. 80-0545-L(J)

PAT CANTERINO, et al., - - - - - - *Plaintiffs,*

AND

THE UNITED STATES OF AMERICA - - - - - *Plaintiff-Intervenor,*

v.

GEORGE WILSON, et al., - - - - - *Defendants.*

AFFIDAVIT

I, LYNNE GRAY, being first duly sworn state and depose: I am a resident Legal Aide at Kentucky Correctional Institute for Women. I have been assigned to this position since May 1, 1984. I attended the two week Legal Aide training given by the Public Advocacy in April, 1984 which was given at Kentucky State Reformatory.

I have filed a 1983 suit in Federal Court on my own behalf. However, I am to the Interrogatory and I do not have the knowledge to continue. Other than this I have only filed cases dealing with domestic relations. I have had no experience in any other type of pleadings. I have never filed, drafted, or worked on any 11.42 motions, 60.02 motion, 59.05 motion, Habeas Corpus, or any appellate case. I have listed these motions because my attorney asked if I knew of them. I have never heard of these motions. It

is frustrating when a resident asks for information which I do not have. I wish I had more training in using the law library, in doing research, and especially civil matters.

I work part-time on Saturdays and handle mostly Divorces, Temporary Custody, and Shock Probations.

(s) Lynne Gray
Affiant

Subscribed and sworn to before me by Lynne Gray, this 13th day of September, 1984. My commission expires: 5/18/88.

(s) Dianne C. Childers
Notary Public, State-at-Large, Ky.

APPENDIX G

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

Civil Action No. 80-0545-L(J)

PAT CANTERINO, et al., - - - - - - *Plaintiffs,*

AND

THE UNITED STATES OF AMERICA - - - - - *Plaintiff-Intervenor,*

v.

GEORGE WILSON, et al., - - - - - *Defendants.*

AFFIDAVIT

I, REBECCA KAY HARP, have being duly sworn state and decree the following:

1.) I am assigned a inmate legal aide at the Kentucky Correctional Institution for Women. I have been assigned in this position since February 1983.

2.) My training for this position consists of a 2 weeks Training given by the Dept. of Public Advocacy and one 2-day follow-up given a year later. I am also taking a correspondence course which I am paying for myself. I am the Senior Legal Aide at this present time by way of being here the longest. When I approached the institution about the cost of this course I was told that I would have to pay for it myself by Teresa Dickenson and that the institution would probably not pay for it. I was also asked to sign a statement that if I was to miss a payment that

the institution was not to be responsible for that payment. This statement was given to Ms. Kassulke.

3.) Other than Domestic Relations I have never filed any other type of Petitions in State or Federal Courts. I did assist one resident in a 1983 Civil Rights Action and things were not correct. Her friend in Eddyville wrote her and told me what to do in this action. I did not approach it on my own. I have never drafted an RCr 11.42, CR 60.02, CR 59.05, Habeas Corpus, Direct Appeal in civil action. The reason I know of these actions are because my attorney had asked if I had ever done these.

A lot of times I have called Barbara Parsons and David Marat of the Dept. of Public Advocacy and ask for assistance on what to do. Also I have experienced some incidents where residents have come to me seeking assistance and I was unable to do anything except write a letter to the Court clerk. I have also responded to them and ask for their assistance.

I also feel that our library could use improving. I still do not understand how to read the U.S.C.A. yet.

The hours that I work are 11:30 a.m. - 7:00 p.m., Tue., Wed., Thur. and 11:30 - 4:00 on Mon., Fri., Also I do work some Saturdays. I am the only full-time Legal Aide and there are 3 part-time Legal Aides also.

I would like to see someone come in and teach me more about Legal Research.

In the hours that I work, I read cases in the Law Books and spend some time in my sutdies.

Copies in Legal Aide have to be paid for by resident. When I first started in Legal Aide copies and postage was paid by Legal Aide Office.

(s) Rebecca Kay Harp
Affiant

Subscribed and sworn to before me by Rebecca Kay Harp, this 13th day of September, 1984. My Commission expires: 5/18/88.

(s) Dianne C. Childers
Notary Public, State-at-Large, Ky.

APPENDIX H

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

Civil Action No. 80-0545-L(J)

PAT CANTERINO, et al., - - - - - - *Plaintiffs,*

AND

THE UNITED STATES OF AMERICA - - - - *Plaintiff-Intervenor,*

v.

GEORGE WILSON, et al., - - - - - *Defendants.*

AFFIDAVIT

I, JANICE HERT, being duly sworn state the following be true. I am presently am a Legal Aide at KCIW and have been working for 5 months. At a present time I worked for a year in 1982 to June 1983.

In 1982, I took the Legal Aide training for a two-week program. This was given at La Grange, Ky.

Other than domestic relation cases, I have never filed anything into Federal and State Courts. I've typed papers for other residents into courts, yet I'v never done the actual drafting of the paper.

I have never filed or drafted the following 11.42 motion, 60.02 motion, 59.05 motion, Habeas Corpus, or any Appellate Case. Some of the above motions I had never heard of or knew how to do until my attorney had mentioned it.

In the past, when one of the men residents was here, he would draft his own motions into court, and I would type them up. I have tried to use his file as a guideline.

– When someone comes to Legal Aide, and ask to file a motion, if I don't know anything about the motion its very embarassing.

When I work in Legal Aide I mostly do all Civil cases like divorces, temopary custody, power of attorney, shocks, name changes. My hours are 8:00 - 11:30 Monday thru Friday.

I also work as the Grievance Clerk, so I work Grievances with Legal Aide problems too!

I can also work doing Intra-State and Inter-State detainers.

(s) Janice Hert
Affiant

Subscribed and sworn to before me by Janice Hert, this 13th day of September, 1984. My Commission expires: 5/18/88.

(s) Dianne C. Childers
Notary Public, State-at-Large, Ky.